D.B.CIVIL SPECIAL APPEAL (W) NO.349/2005
DR. SHYAM SUNDAR SHUKLA VS. STATE OF RAJ. AND ORS.

14.7.2006

HON'BLE MRS.GYAN SUDHA MISRA,J
HON'BLE DR. VINEET KOTHARI,J

Mr. Rajendra Soni for the appellant.
Mr. SS Sharma GA for the State
Mr. HN Kumawat for
Mr. SN Kumawat for the RPSC.

This appeal has been preferred against the order of the learned Single Judge dated 9.2.2005 by which the writ petition filed by the petitioner claiming appointment on the post of Homeopathic Chikitsak was rejected on the basis that the Selection Committee, at the time of interview, had held him unsuitable for the post. This was the sole basis for rejection of his candidature against which this appeal has been preferred.

Learned counsel for the appellant Mr. Soni has submitted that the ground on which the appellant had been disqualified was due to the fact that in the OBC category other candidates who should have been included in the general category were allowed to be interviewed in the OBC category due to which the appellant, who also belongs to the OBC category, was declared unsuitable for the post.

Having perused the order of the learned Single Judge as also the writ petition, we do not find that these facts had been urged before the learned Single Judge. The admitted position is that the selections had to be made after the candidates were interviewed by the Selection Committee and were found suitable for the post.

The appellant had also appeared for the interview before the Selection Committee and the Selection Committee has categorically held that the appellant was unsuitable for the post. Thereafter, if he has been disqualified for appointment, it is not open for him to urge that the ground for declaring him unsuitable was not on account of his unsuitability but for reasons of inclusion of other OBC candidates also in that category. This, in our view, is clearly speculative contention on the part of the appellant herein which we cannot permit for if it were so, the appellant should have approached the court prior to the interview or soon after the interview. It is clear that the selection had to be made on the basis of interview and the appellant having not been found suitable by the Selection Committee, it is not legally permissible for the Court to delve deep into the views of the members of the Selection Committee and come to a conclusion that the appellant was wrongly declared unsuitable on account of inclusion of other OBC candidates. The appellant has not even raised any malafide on the part of the members of the Selection Committee so as to contend that the Selection Committee had disqualified him for any extraneous reason by enlarging the number of candidates who were summoned for the interview. The appeal thus has no substance and hence it stands dismissed at the admission stage itself.

(Dr.VINEET KOTHARI)J. (GYAN SUDHA MISRA)J.